



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:
Administrators, Offices of Native American
Programs; and Tribes, Tribally Designated
Housing Entities (TDHE)

Notice PIH-2020-11

Issued: May 15, 2020

Expires: This Notice
remains in effect until amended,
superseded, or rescinded.

Cross Reference(s):

24 CFR Part 1003

2 CFR Part 200

FY 2019/2020 ICDBG NOFA

PIH Notice 2020-05

ONAP Program Guidance 2016-06

SUBJECT: ICDBG-CARES Implementation Notice

- Purpose:** The purpose of this Implementation Notice is to provide Indian tribes with instructions on how to apply for Indian Community Development Block Grant (ICDBG) Imminent Threat funding provided under the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act), and other program requirements. These grants will be called “ICDBG-CARES” grants. This Notice will be referred to as the “ICDBG-CARES Implementation Notice.” The Office of Native American Programs (ONAP) will begin accepting applications on **Monday, June 1st at 3PM Eastern Time**. Applications submitted before this time will not be considered and must be resubmitted after **Monday, June 1st at 3PM Eastern Time**. HUD reserves the right to modify application requirements as the Coronavirus disease 2019 (COVID-19) pandemic unfolds.

Applications for grants under the regular ICDBG-Imminent Threat program will continue to be considered under the requirements specified in the FY19/FY20 ICDBG NOFA and ONAP Program Guidance 2018-04.

- Background:** On March 27, 2020, the CARES Act (Public Law 116-136), was signed into law. The Act provides for up to \$100,000,000 in ICDBG Imminent Threat (IT) funding to prevent, prepare for, and respond to coronavirus, for emergencies that constitute imminent threats to health and safety. This funding will be provided in the form of grants to eligible Indian tribes and must be used to prevent, prepare for, and respond to the Coronavirus disease 2019 (COVID-19). This funding must be used in accordance with the applicable requirements of the CARES Act, Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5103 et seq.), and the ICDBG implementing regulations at 24 CFR Part 1003. In addition, Congress authorized HUD to waive or specify alternative requirements for any statute or regulation (except for

requirements related to fair housing, nondiscrimination, labor standards, and the environment) that HUD administers to expedite or facilitate the use of ICDBG-CARES grant funds to prevent, prepare for, and respond to COVID-19.

On April 10, 2020, HUD issued PIH Notice 2020-05. The Notice describes in detail the various waivers and alternative requirements that have been issued thus far with respect to ICDBG-CARES grants and FY 2020 ICDBG grants. Before applying for an ICDBG-CARES grant, **all applicants are strongly advised to review PIH Notice 2020-05**, particularly Section 14 of the Notice addressing the ICDBG program. Given the broad statutory authorities provided in the CARES Act, HUD may consider further waivers and alternative requirements for the ICDBG program based on the needs of Indian tribes. Indian tribes and TDHEs may submit waiver requests to HUD at any time for HUD's consideration.

On April 15, 2020, HUD issued a Dear Tribal Leader Letter seeking Tribal feedback on the ICDBG-CARES Act implementation process. Specifically, HUD sought comments on how to set maximum grant ceilings, and requested that Tribes share their views on how funds should be awarded. HUD received a significant number of comments and took them into consideration when drafting this Notice.

ICDBG-CARES grantees are encouraged to frequently visit the Centers for Disease Control and Prevention (CDC) website at www.cdc.gov/coronavirus/2019-ncov to ensure that they are relying upon the most up-to-date information.

3. Eligible Applicants: Indian tribes and Tribal organizations may apply for ICDBG-CARES funds if they meet the criteria for eligible applicants provided in the ICDBG regulations at 24 CFR 1003.5. Outstanding civil rights matters must be resolved to HUD's satisfaction prior to grant award, provided that all applicable legal processes have been satisfied.

a. Indian tribes: The following entities meet the definition of eligible Indian tribe under the ICDBG-CARES program and may apply for funding under this Notice:

- i. Any Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska native village of the United States which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301, et seq.). Eligible recipients under Title I of the Indian Self-Determination and Education Assistance Act are those identified on the most current Federal Register listing of "Indian Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs" (85 FR 5462, published January, 3, 2020, available at <https://www.federalregister.gov/d/2020-01707>).
- ii. Any Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska native village of the United States which had been an eligible recipient under the State and Local Fiscal Assistance Act of 1972 (formerly 31 U.S.C. 1221). Applicants that were eligible recipients under the State and Local Fiscal Assistance Act of 1972 are those that had been determined eligible by the Department of Treasury,

Office of Revenue Sharing.

- b. **Tribal organizations**: Pursuant to 24 CFR 1003.5(b), Tribal organizations which are eligible under Title I of the Indian Self-Determination and Education Assistance Act may apply on behalf of any Indian tribe, band, group, nation, or Alaska native village when one or more of these entities have authorized the Tribal organization to do so through concurring resolutions. Eligible Tribal organizations under the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs or Indian Health Service, as appropriate. Tribal organizations applying under this Notice must submit a copy of their eligibility determination with the application unless they have already submitted such to HUD.

HUD recognizes that some Tribal organizations that are applying on behalf of an Indian tribe may not be able to secure an appropriate tribal resolution authorizing it to apply for an ICDBG-CARES grant on behalf of an Indian tribe(s) at this time, due to the ongoing emergency. Any Tribal organization that intends to submit an ICDBG-CARES application but cannot secure such tribal resolutions because doing so may not be practical or safe may request a waiver of this requirement in 24 CFR 1003.5(b) in their application. HUD will consider the application incomplete if it does not include this waiver request with an accompanying justification for why there is good cause for HUD to grant the waiver request. A Tribal organization seeking a waiver must still provide HUD with information on any other steps it has taken to consult with the beneficiary Indian tribe(s) on the contents of its application (short of securing a tribal resolution), and provide any other relevant information demonstrating why it is not practical or safe to secure a tribal resolution in order to allow HUD to determine whether good cause exists to grant the waiver request. If HUD approves funding for the application, it will concurrently grant the waiver of 24 CFR 1003.5(b) and make the award to the Tribal organization. However, any Tribal organization that receives an award must consult with the beneficiary Indian tribe(s) that they serve, in a manner that is feasible and when it is safe and practical to do so, and submit tribal resolution(s) authorizing their application for an ICDBG-CARES grant at a later date to HUD.

4. **Funding Criteria and Requirements**: HUD recognizes that the current COVID-19 emergency has caused substantial disruption to the operations of Indian tribes across Indian Country. To help minimize unnecessary administrative burden, HUD has worked to streamline the application process as much as possible, while also ensuring that all ICDBG-CARES grant funds will be expended in accordance with program requirements, and will be used to prevent, prepare for, and respond to COVID-19, as required under the CARES Act.

- a. **Citizen Participation**: Applicants are not required to hold meetings to obtain the views of residents before applying for ICDBG-CARES grant funding. Applicants, however, will be required to meet the citizen participation requirements by publishing or posting information on their plans to use the ICDBG-CARES grant, and accepting and considering comments, to the extent the Indian tribe determines that can be done without unnecessary risks to residents' health and safety. Applicants may also choose to hold virtual meetings with the

public to meet these streamlined citizen participation requirements, if feasible. When holding a virtual meeting, an applicant should take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act of 1973 (Pub. L. No. 93-112) (29 U.S.C. § 701, et seq.), as described in greater detail in PIH Notice 2020-05.

- b. **Eligible Purposes:** The CARES Act requires grantees to use ICDBG-CARES grant funds “to prevent, prepare for, and respond to coronavirus, for emergencies that constitute imminent threats to health and safety.” Accordingly, HUD will only fund ICDBG-CARES applications that propose to carry out projects and activities designed to address emergencies that constitute imminent threats to health and safety and that meet one or more of these eligible purposes (i.e. to prevent, prepare for, and respond to coronavirus). For more information, see **Section 7: Eligible Purposes.**
- c. **Urgency and Immediacy of Threat:** Pursuant to the waivers and alternative requirements issued in PIH Notice 2020-05, for applications proposing to carry out activities or projects designed to prevent, prepare for, or respond to COVID-19, the urgency and immediacy of the threat need not be independently verified before approval of an application. The urgency and immediacy of the threat will be presumed by HUD, unless HUD has evidence to the contrary.
- d. **Nonrecurring Threats and Impact on Service Area:** Applications need not demonstrate that COVID-19 is a non-recurring imminent threat and that it has an impact on an entire service area. HUD will presume these criteria are met unless HUD has evidence to the contrary.
- e. **Available Resources:** Pursuant to PIH Notice 2020-05, applicants do not have to demonstrate to the satisfaction of HUD that other Tribal funding sources cannot be made available to alleviate the threat. Additionally, HUD will not consider recently awarded IHBG-CARES funding, and regular IHBG funding that has already been budgeted in the relevant IHP or contracted, when assessing available Federal resources.
- f. **Coordination and Duplication of Benefits:** Applicants are responsible for ensuring that they are coordinating locally, and with other Federal agencies, to ensure that funds are used appropriately to address gaps in funding, avoid unnecessary overlap in effort, and to avoid any duplication of benefits.

For the COVID-19 Emergency, duplication of benefits occurs when Federal financial assistance is provided for the same costs paid by any other source, or for costs to repair or replace losses that have or will be paid by private insurance, and the total amount received exceeds the total need for those costs. Practically, what this means is that ICDBG-CARES funds cannot be used to pay for eligible costs that have already been paid for, or will be paid for, by another Federal program, insurance, or other sources. If this occurs, the grantee must repay its ICDBG-CARES program. This does not include the reimbursement of costs previously incurred by the grantee as authorized under the CARES Act.

- g. Administration and Planning: ICDBG-CARES grantees may not expend more than 20% of their grant amount, plus program income, toward administration and planning costs.
- h. Program Income: Any program income derived from the use of ICDBG-CARES grant funds will be considered program income under the ICDBG-CARES program and must be spent on eligible ICDBG-CARES program activities and in accordance with all ICDBG-CARES program requirements. In accordance with 24 CFR 1003.508, any program income remaining on hand at the time of grant closeout must be identified in the closeout agreement. HUD will provide instructions to the ICDBG-CARES grantee on the disposition of such program income at the time the closeout agreement is signed.
- i. Grant Ceilings: After reviewing and considering the views and comments received from Indian tribes on how to set maximum grant ceilings in response to HUD’s April 15, 2020 Dear Tribal Leader Letter, HUD determined the grant ceiling for each ICDBG-CARES award is to be based on the amount of funds each Indian tribe or TDHE received under the IHBG-CARES program. The IHBG-CARES formula allocations are available at: https://www.hud.gov/sites/dfiles/PIH/documents/IHBG-CARES_Formula_Allocations_4.3.20%20.pdf.

The ICDBG-CARES grant ceilings are benchmarked to the typical grant ceiling for ICDBG Imminent Threat grants for Presidentially declared disasters, as well as the previously allocated IHBG-CARES amounts. By doing this, HUD accomplishes the following goals:

- i. Set maximum ICDBG-CARES grant amounts that are sensitive to the fact that some Indian tribes have larger populations with higher needs than others;
- ii. Recognize that IHBG-CARES funding may not be enough funding for the smallest Indian tribes to address serious COVID-19-related needs, and ICDBG-CARES can fill that funding gap; and
- iii. Maintaining parity with the standard Imminent Threat Grants.

HUD is establishing the following ICDBG-CARES grant ceilings:

IHBG-CARES Funding Formula	Grant Ceiling
More than \$2 million	\$3 million
More than \$750,000 but less than \$2 million	\$1.5 million
Less than \$750,000	\$900,000

HUD expects and encourages ICDBG-CARES grantees to expend funds expeditiously given the ongoing COVID-19 National Emergency and to prioritize their most urgent unaddressed needs to prevent, prepare for, and respond to COVID-19. As discussed further in Section 5, for all amounts requested, grantees must demonstrate that activities, projects and programs can be completed within a

reasonable timeline so as to be justified as reasonably preventing, preparing for, and responding to COVID-19.

- j. **Lead Based Paint Requirements:** When providing housing assistance funding for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

When providing education or counseling on buying or renting housing that may include pre-1978 housing, applicants must inform clients of their rights under the Lead Disclosure Rule (24 CFR Part 35, subpart A), and, if the focus of the education or counseling is on rental or purchase of HUD-assisted pre-1978 housing, the Lead Safe Housing Rule (subparts B, R, and, as applicable, F - M).

- k. **Environmental Requirements:** Activities under this NOFA are subject to the environmental review provisions set out at 24 CFR 1003.605, 24 CFR 1003.401, and 24 CFR Part 58. The expenditure or commitment of ICDBG or non-Federal funds on project activities (other than those that are exempt or categorically excluded from environmental review under 24 CFR 1003.401, 24 CFR 58.34 or 58.35(b)) prior to completion of review and HUD approval under Part 58 may result in the denial of assistance for the project or activities under consideration. Where a tribal organization has applied for a grant on behalf of an Indian tribe, the tribe is considered the grantee responsible for environmental review requirements.

In the near future, HUD intends to issue further guidance on conducting environmental reviews pursuant to 24 CFR Part 58 for activities undertaken in response to the COVID-19 National Emergency.

- 5. **Content of Application:** The application **must** include the following to be considered complete and maintain its place in order of award:

1. Standard Form-424 (Application for Federal Assistance), available at <https://www.grants.gov/forms/sf-424-family.html>. Select “Application for Federal Assistance (SF-424)” from the list of forms. Click on “Enable All Features” if prompted to do so. This may be necessary for the form to appear.
2. [HUD-2880](#) (Application/Disclosure/Update Report).
3. [HUD-4123](#) (Cost Summary).
4. Project Description Summary. Information submitted must include:
 - a. A written description of the activities, projects, or programs that the applicant plans to undertake, and how the activities, projects, or programs are tied to preventing, preparing for, and/or responding to COVID-19.

- b. A written statement describing how the funded activities will be carried out successfully, timely and within the proposed timeline, and in compliance with program requirements.
- c. A narrative description of the implementation timeline (as also reflected in the [HUD-4125](#) (Implementation Schedule)).

Applicants should be mindful to propose appropriate implementation timelines. In reviewing applications, HUD will assess whether the period of time that the applicant proposes to carry out its proposed activities, projects, or programs is reasonably set (depending on the nature of the activities, projects, or programs being proposed) so as to be justified as reasonably preventing, preparing for, and responding to COVID-19. HUD reserves the right to reject activities, projects, or programs with implementation timelines that are so lengthy that HUD determines, based on its best judgment and discretion, that the activities, projects, or programs proposed cannot be justified as reasonably preventing, preparing for, and responding to COVID-19.

If HUD questions the proposed timelines to carry out activities, projects, or programs in an application, HUD will first notify the applicant of this deficiency and instruct the applicant to revise its proposed implementation timeline by submitting a revised Implementation Schedule. HUD will work with the applicant to ensure that the revised Implementation Schedule is reasonably set so as to allow the applicant to reasonably prevent, prepare for, and respond to COVID-19. If the applicant fails to revise the Implementation Schedule to HUD's satisfaction, HUD reserves the right to only fund a portion of the application or reject the entire application and award an ICDBG-CARES grant to the next fundable applicant.

Generally, consistent with the regular ICDBG Imminent Threat program (see ONAP Program Guidance 2016-06), applications that propose Implementation Schedules that are less than 12 months from the time of the grant award will be presumed to be reasonably set.

HUD will accept applications that propose Implementation Schedules that are longer than 12 months from the time of the grant award, but such applicants must provide HUD with a justification, including supporting documentation, demonstrating why the proposed timeline is reasonably set to prevent, prepare for, and respond to COVID-19. In reviewing such Implementation Schedules, HUD will consider all relevant factors including, but not limited to: the nature of the activities, projects, or programs being proposed, the size of the ICDBG-CARES grant requested, any disruption in supply chains, barriers caused by a short or disrupted construction season, infrastructure challenges, impact of COVID-19 on the applicant's operations and its ability to carry out activities, projects, or programs more expeditiously, and more.

An application that is otherwise complete but that proposes an Implementation Schedule that HUD initially determines is too long and should be revised, will not automatically be considered to be incomplete solely because the Implementation Schedule may be too long in HUD's judgment. These applications will retain their original date stamp while HUD works with the applicant to revise the proposed Implementation Schedule.

New Housing Construction Projects: Applicants proposing to use ICDBG-CARES grants to carry out new housing construction should note that HUD will only fund applications that propose to carry out new housing construction that is clearly designed to prevent, prepare for, and respond to COVID-19 (e.g. to reduce overcrowding), and that the applicant plans to carry out expeditiously. Applicants should not apply for an ICDBG-CARES grant with the goal of displacing longer-term funding for the same planned new housing construction project.

Economic Development Projects: Given the current National Emergency and other Federal resources being made available to Indian tribes and businesses in response to the pandemic (e.g. the Coronavirus Relief Fund administered by the U.S. Department of Treasury and Paycheck Protection Program administered by the Small Business Administration), HUD encourages applicants to first consider submitting applications for other non-economic development projects before considering submitting an ICDBG-CARES application to carry out economic development projects. Notwithstanding other provisions in this Notice, HUD may prioritize funding applications that propose non-economic development projects, and, depending on program demand, reserves the right to fund applications, or portions of applications, proposing economic development projects only after ensuring that fundable applications proposing other eligible ICDBG-CARES activities are fully funded first, and ICDBG-CARES funding remains available to fund such economic development projects.

In accordance with 24 CFR 1003.302(c), all applicants for economic development projects must provide an analysis which shows public benefit commensurate with the ICDBG-CARES assistance requested will result from the assisted project. This analysis should also establish that to the extent practicable: reasonable financial support will be committed from non-Federal sources prior to disbursement of Federal funds; the ICDBG-CARES grant provided will not substantially reduce the amount of non-Federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and, that grant funds used for the project will be disbursed on a pro rata basis with amounts from other sources. In addition, the application must demonstrate that the project is

financially feasible and that it has a reasonable chance of success.

5. [HUD-4125](#) (Implementation Schedule). Upon a finding of good cause, HUD may approve an applicant's request to revise the Implementation Schedule at a later date, in the event of a reasonable delay.
6. Detailed budget information. Applicant must include any pre-award costs incurred that the applicant seeks reimbursement for and documentation supporting those reimbursable costs. HUD will only reimburse costs paid with non-Federal funds that are eligible and allowable under the ICDBG-CARES grant program, and will not reimburse costs incurred by the applicant prior to January 21, 2020 – the date of the first confirmed case of COVID-19 in the United States according to the CDC. An applicant must identify the date that it started incurring costs that it seeks to reimburse and provide a detailed description of those activities undertaken.

Note: The January 21, 2020 date may be revised in the future in a HUD-issued notice, depending on whether the CDC subsequently revises its data with respect to the date of the first confirmed case of COVID-19 in the United States.

7. If applicable, only for Tribal organizations applying for an ICDBG-CARES grant without an accompanying concurring tribal resolution from the Indian tribe on whose behalf the Tribal organization is applying, a request to HUD to waive the tribal resolution requirement in 24 CFR 1003.5(b) along with a justification to show that good cause exists for HUD to waive this requirement.

6. **Application Submission, Review and Approval:** The Office of Native American Programs (ONAP) will begin accepting applications on **Monday, June 1st at 3PM Eastern Time**. Applications submitted before this time will not be considered and must be resubmitted after the **Monday, June 1st at 3PM Eastern Time** opening date and time.

Applications **must** be sent to ICDBG CARES@hud.gov. Applications shall not be sent via regular mail given that HUD is operating under mandatory telework at the present time. As a result, applications sent via regular mail will not be considered. After sending their applications to ICDBG CARES@hud.gov, applicants should maintain the original application with wet signatures in their files. **Do not submit ICDBG-CARES applications through www.grants.gov**. ICDBG-CARES applications sent to the Area ONAP will not be date stamped and applicants will be redirected to submit their application to ICDBG CARES@hud.gov.

Applications will be considered and awarded on a first-come, first-serve basis. Once received, applications will be date stamped based on the time they are received in ICDBG CARES@hud.gov. If an application does not include all of the submissions outlined in Section 5, Content of Application, the application will be considered incomplete and lose its position with respect to any other submitted applications. If a required submission is included but is materially deficient, the application will be considered incomplete and lose its position with respect to any other submitted applications. A required submission will be considered to be materially deficient if the

information included in the submission is so deficient that HUD determines, at its sole discretion, that the submission is effectively incomplete. If an application is considered incomplete, ONAP will notify the applicant as soon as possible, and advise the applicant on how to cure any deficiencies. Once cured of its deficiencies, an application may be resubmitted to ICDBG CARES@hud.gov and be date stamped based on the time of receipt.

ONAP will review the complete applications and determine whether to fund the application. ONAP may require additional information from the applicant before funding the application. ONAP will notify the applicant, and the applicant must respond to ONAP with this additional information within the timeframe that ONAP identifies. If the applicant does not respond within that timeframe, the application will be considered incomplete and lose its position with respect to any other submitted applications. ONAP may provide less funding to an applicant than the full amount requested in the application. ONAP may also choose to fund only certain activities, projects, or programs proposed in an application. Applicants will be funded on a first-come first-served basis according to the date stamp.

If ONAP approves the ICDBG-CARES grant, the ONAP Area Office will send a Grant Approval Letter and Form HUD-52734A (ICDBG Funding Approval/Agreement) by email to the person designated on Form SF-424, Item 8F and to the authorized representative in Item 21. Grantees will have the option to either scan and upload the signed document or sign electronically. For scanned documents, ICDBG-CARES grantees will be responsible for maintaining the original document.

Funds will be available to draw down from the Line of Credit Control System (LOCCS) as soon as the fully executed grant agreements are returned by the applicant and processed by HUD. All documents will be provided in electronic format and must be returned in electronic format. HUD expects and encourages ICDBG-CARES grantees to expend funds expeditiously given the ongoing COVID-19 National Emergency.

HUD will assess how the pandemic is progressing, program demand, available funding, and related factors, and reserves the right to adjust how funding is awarded to ensure needs of Indian tribes are met, including possibly setting aside a portion of funding to address the needs of Indian tribes with the greatest needs. If within the first month of accepting applications, HUD finds that demand will likely far exceed the total available funding, HUD reserves the right to set aside the final \$20 million, or a lesser amount, to award to Indian tribes with the greatest need or urgency rather than on a first-come first-serve basis. HUD also reserves the right to set aside this funding and make it available on a first-come first-serve basis, but at a later date. This may be done to ensure that Indian tribes with the greatest need or urgency that may not be able to apply for an ICDBG-CARES grant because they are actively responding to COVID-19 in their community are afforded an opportunity to apply at a later date, and to ensure that Indian tribes that may become more severely impacted by the COVID-19 Emergency in the near future have an opportunity to apply for a grant. If HUD exercises this option and sets aside the final \$20 million to be awarded at a later date, HUD is not obligated to award any otherwise fundable applications that were previously received, but were not funded because funding under the first round of awards was depleted. However, HUD reserves the right to review such applications and determine whether they should be funded based on any new award criteria that HUD may set for the second round of awards. HUD may also award

additional funding through the IHBG-CARES program if a sufficient amount of ICDBG-CARES funding remains unobligated after a period of time and projected program demand is low.

7. **Eligible Purposes:** The CARES Act requires ICDBG-CARES grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, ICDBG-CARES grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

1. **Activities, Projects, or Programs to Prevent COVID-19**
2. **Activities, Projects, or Programs to Prepare for COVID-19**
3. **Activities, Projects, or Programs to Respond to COVID-19**

HUD will regard applications that propose to carry out activities, projects, or programs that are designed to prevent, prepare for, and respond to COVID-19, both in the short-term and long-term, as activities that meet the purposes of the CARES Act. This includes activities, projects, or programs that will reduce or mitigate the short-term, medium-term, and also longer-term risks and vulnerabilities of Tribal communities to COVID-19 (e.g., activities that reduce overcrowding).

While not required, ICDBG-CARES grantees are encouraged to consider the short-term and medium-term needs of their communities first before undertaking more long-term activities and projects designed to prevent, prepare for, or respond to COVID-19. HUD also encourages ICDBG-CARES grantees to prioritize expending these funds as expeditiously as possible, given the ongoing COVID 19 National Emergency.

ICDBG-CARES grant funds may also be used to cover or reimburse allowable costs paid with non-Federal funds by the ICDBG-CARES grantee, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020. Please see Section 9 of this Notice, Reimbursement of Costs.

To assist applicants in ensuring that the activities being proposed can be tied to one or more of the three eligible purposes of the CARES Act, applicants should consider the following:

- **Prepare for:** ICDBG-CARES grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease.
- **Prevent:** ICDBG-CARES grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to the Tribal community.

- **Respond to:** Once COVID-19 has spread in the community, examples of how ICDBG-CARES grantees may choose to respond to COVID-19 may include using ICDBG-CARES grant funds to care for those who have become infected and to limit the exposure and spread of the virus, providing emergency rent payments and other public services to families that cannot pay rent, carrying out activities to reduce severe overcrowding, preventing homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

While these descriptions of the eligible purposes can guide ICDBG-CARES grantees, certain activities, depending on context, do not always obviously fit under one or more categories, and the grantee should therefore use its best judgment to determine to which category or combination of categories that its activity is tied, based on local circumstances. These descriptions are designed to provide general guidance to grantees and are not intended to limit the range of eligible ICDBG-CARES grant activities that can be carried out. Provided a grantee can, in HUD's judgment, reasonably tie their ICDBG-CARES activities back to one or more eligible purposes, HUD will accept the grantee's classification.

Pursuant to 24 CFR 1003.200, ICDBG-CARES grants do not have to comply with the primary objective of the Housing and Community Development Act of 1974 (that no less than 70 percent of expenditures of each grant be for activities which meet the criteria set forth in 24 CFR 1003.208(a)-(d)).

8. **Eligible Activities:** Examples of activities, projects, or programs that could be funded, provided they meet one or more of the above eligible CARES Act purposes, include, but are not limited to, the following:

Housing Activities

Applicants may carry out housing activities such as:

- Rehabilitation of, and other improvements to, housing to prepare units to be used to temporarily house persons that need to quarantine/shelter-in-place.
- Rehabilitation of housing to improve ventilation to reduce the risks of COVID-19.
- New Construction of housing, including tiny homes, when such construction is done expeditiously and carried out to reduce overcrowding or to otherwise prevent, prepare for, and respond to COVID-19.
- Acquisition of modular homes or RVs to meet an immediate need to provide housing for medical workers, and other essential service providers and front-line staff.

Public Facilities and Infrastructure

Applicants may acquire, construct, rehabilitate, or install public works, facilities, and site or other improvements, when carried out expeditiously to prevent, prepare for, and respond to COVID-19. Examples include:

- Construction of permanent or temporary facilities for testing, diagnosis, or treatment of COVID-19.

- Rehabilitation of facilities to establish an infectious disease treatment clinic.
- Acquisition, rehabilitation, or construction of a group living facility that may be used to centralize patients undergoing treatment.
- Retrofitting of a food bank to ensure that employees and volunteers can safely work in the facility and distribute food.
- Construction or conversion of structures that can serve as temporary emergency shelters to shelter homeless persons and minimize risk of community spread.
- Paying for the operation and maintenance expenses of existing shelters and other public facilities (not including staffing costs) designed to ensure homeless persons are provided safe shelter and to minimize the risk of community spread.
- Acquisition or conversion of a motel or hotel building or similar facility to expand capacity of hospitals to accommodate isolation of patients during recovery.
- Expanding or repairing water lines to ensure families have access to water to adhere to CDC guidelines and prevent the spread of COVID-19.
- Purchase of water tank trucks and other water distribution equipment, supplies, and facilities to support families without access to water.
- Purchase of emergency ambulances and related specialized equipment and tools to expand medical and other emergency services.
- Expanding cell towers and broadband infrastructure capacity needed to assist communities lacking internet and phone service to conduct business, allow students to participate in distance learning, support telehealth strategies, and provide other community services, provided such activities can be carried out expeditiously.

Public Services

Applicants may provide new or quantifiably increased public services. ICDBG-CARES funds are not subject to the 15 percent cap on public services that normally applies to ICDBG grant funds. Examples include:

- Up to 6 months of emergency payments in the form of rental assistance, utility assistance (including internet access to allow children to engage in distance learning), food assistance, clothing, medical, and other emergency assistance.
- Placement of homeless persons in hotel/motels, and other non-congregate sheltering, to minimize infection.
- Job training, including safety training for new health care workers and technicians, to expand the pool of health care workers and technicians that are available to treat disease within a community.
- Providing security to ensure the health and safety of community members and to secure construction sites and community facilities from theft or vandalism.
- Testing, diagnosis or other services at a fixed or mobile location.
- Increasing the capacity and availability of targeted health services for infectious disease response within existing health facilities.
- Equipment, supplies, and materials necessary to carry-out a public service, including personal protective equipment or other necessary engineering controls to protect health care workers and others providing public services.
- Purchasing groceries for a food bank or distribution to vulnerable individuals.

- Delivering meals to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities.
- Acquisition or leasing of telehealth equipment or services to allow assisted residents access to health care providers from home.

Ineligible Activities

- Activities, projects, or programs that are not reasonably tied to preparing for, preventing, and responding to COVID-19 are ineligible under the ICDBG-CARES program.
- Unless waived or modified by HUD, as provided in PIH Notice 2020-05 and any similar waiver notice issued in the future, ineligible activities described in 24 CFR 1003.207 continue to be ineligible (e.g., buildings or portions thereof used for the general conduct of government, political activities, general government expenses).
- ICDBG-CARES grant funds cannot be used to replace or reimburse ICDBG grant funds that were reprogrammed and used to prevent, prepare for, and respond to COVID-19, and then used for other activities typically eligible under the ICDBG program.

9. Reimbursement of Costs: ICDBG-CARES grants may also be used to cover or reimburse any allowable costs paid with non-Federal funds by the applicant to prevent, prepare for, or respond to COVID-19, including costs incurred prior to the enactment of the CARES Act (prior to March 27, 2020). If an ICDBG-CARES applicant plans to reimburse such costs, the applicant must provide the date on which it began preparing for COVID-19, and must provide and maintain documentation supporting all of its reimbursable costs. HUD will not accept dates that pre-date January 21, 2020 – the date of the first confirmed case of COVID-19 in the United States according to the CDC. HUD reserves the right to request additional documentation from an applicant to support the reimbursement of allowable costs incurred.

10. Reporting Requirements: The following reporting requirements apply to the ICDBG-CARES grants. HUD may issue further guidance on reporting requirements in the near future:

- a. Quarterly Federal Financial Reports (SF-425):** These reports account for the receipt and disbursement of ICDBG-CARES funding.
- b. Annual Status and Evaluation Report (ASER):** ICDBG-CARES grantees will be required to submit this report annually to report on its progress in implementing the grant. An ASER will also be required after the ICDBG-CARES grant is fully expended.
- c. Additional CARES Act Reporting:** Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As

outlined in the Office of Management and Budget (OMB) memorandum, M-20-21, existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further guidance will be released by the Department in the near future.

11. Use of ICDBG Funding: In accordance with the CARES Act, waivers and alternative requirements issued by HUD, as provided in PIH Notice 2020-05 and in any subsequent waiver notice that HUD may issue in the future, also apply to ICDBG funding provided under the FY19/FY20 ICDBG NOFA published at: <https://www.hud.gov/sites/dfiles/PIH/documents/FY%202019-2020%20ICDBG%20NOFA.pdf>. Additionally, Congress removed the 15 percent cap on public services with respect to these funds. Accordingly, ICDBG grantees that received, or will receive, an ICDBG grant funded under the FY19/FY20 ICDBG NOFA may choose to submit amendments to change the planned use of a portion or all of their ICDBG grants, and will not be subject to the 15 percent cap on public services with respect to uses of funds to prevent, prepare for, or respond to COVID-19. However, any grantees that seeks to change their planned use of these ICDBG grants must still comply with 24 CFR 1003.305 governing program amendments.

12. General Resources:

Office of Native American Programs COVID-19 Recovery Programs website: https://www.hud.gov/program_offices/public_indian_housing/ih/Covid_Recovery

IHBG-CARES Waivers and Alternative Requirements, PIH Notice 2020-5: <https://www.hud.gov/sites/dfiles/PIH/documents/PIH2020-05.pdf>

Office of Native American Programs website, including updated COVID-19 related Frequently Asked Questions: <https://www.hud.gov/codetalk>

HUD COVID Resources and Fact Sheets: <https://www.hud.gov/coronavirus>

PAPERWORK REDUCTION ACT: The information collection requirements contained in this Notice are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this Notice are approved under the PRA OMB Control Number 2577-0191.

If you have questions about the ICDBG-CARES grant funding process, please contact your Office of Native American Programs Area Office.

_____/s/_____
R. Hunter Kurtz
Assistant Secretary
for Public and Indian Housing